

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CIVIL CASE NO. 06-11700

v.

VIVIAN JONES KOEBELE,

HONORABLE PAUL V. GADOLA
U.S. DISTRICT COURT

Defendant.

ORDER GRANTING SUMMARY JUDGMENT ON ISSUE OF LIABILITY

Before the Court is Plaintiff's motion for summary judgment. From approximately November 1971 through July 1976, Defendant executed several promissory notes in order to secure school loans. Defendant defaulted on the promissory notes on August 2, 1978. Plaintiff initiated this case in an attempt to recover the amount owed by Defendant. Plaintiff argues that summary judgment is appropriate in its favor because there is no genuine issue of material fact and as a matter of law, Plaintiff is entitled to judgment. *See* Fed. R. Civ. P. 56(c).

Defendant does not dispute that she is in default. Instead, Defendant argues that the language of the promissory notes contains a provision which states that Defendant is entitled to a reduction of the principal based on the amount of time Defendant worked as a teacher. Consequently, Defendant argues that Plaintiff is not entitled to recover the full face amount of the loans.

After having reviewed the filings in this case, the Court finds that there is no genuine issue of material fact on the question as to whether Defendant is in default. Accordingly, on the issue of liability, Plaintiff is entitled to summary judgment as a matter of law. On the issue of the amount

of damages, however, there is a dispute. Defendant argues that the contractual provisions giving a reduction in the principal is proper due to Defendant's work as a teacher. In order to ensure that the question of damages is properly adjudicated, the Court will order the parties to submit briefs on this question within thirty (30) days from the issuance of this order.

ACCORDINGLY, IT IS HEREBY ORDERED that, on the issue of liability, Plaintiff's motion for summary judgment [docket entry #20] is **GRANTED**. There is no genuine issue of material fact, and as a matter of law, Defendant is liable to Plaintiff for the defaulted loans.

IT IS FURTHER ORDERED that, on the issue of amount of damages to which Plaintiff is entitled, the parties will each submit a brief within thirty (30) days of the date of this order.

SO ORDERED.

Dated: September 10, 2007

s/Paul V. Gadola

HONORABLE PAUL V. GADOLA
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that on September 10, 2007, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

James M. Hacker; Pamel a S. Ritter, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: _____.

s/Ruth A. Brissaud

Ruth A. Brissaud, Case Manager
(810) 341-7845